

1652
IFW

S/N 09/753,139

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Stephen Quirk *et al.* Examiner: Małgorzata Walicka
Serial No.: 09/753,139 Group Art Unit: 1652
Filed: December 29, 2000 Docket: 1443.108US1
Title: DESIGN AND USE OF ADVANCED ZINC CHELATING PEPTIDES TO
REGULATE MATRIX METALLOPROTEINASES

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Applicants have reviewed the Restriction Requirement mailed June 30, 2004, where the Examiner requested election of one of the following groups:

Group I (claims 1-7 and 15-21) directed to a MMP regulator comprising a zinc chelator and a TIMP-derived peptide and a composition comprising a pharmaceutically acceptable carrier and an MMP regulator, wherein the MMP regulator comprises a zinc chelator and a TIMP-derived peptide; and

Group II (claim 8-14) directed to a method of treating chronic or acute wounds comprising administering an MMP regulator comprising a zinc chelator and a TIMP-derived peptide.

Applicants provisionally elect, with traverse, the claims of Group I (claims 1-7 and 15-21).

The Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. M.P.E.P. § 803. It is respectfully submitted that the search and examination of the claims can be made without serious burden on the Office. Thus, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

In addition, the Examiner has indicated that Applicants must elect a single disclosed species from Group A (zinc chelators, which includes EDTA, EGTA, DTPA, SDTA, HEDTA, NTA, PSDE, AFTA, citric acid, salicylic acid, malic acid, SEQ ID NO:9 and SEQ ID NO:10)

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and a single disclosed species from Group B (SEQ ID NO:1, SEQ ID NO:2, SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:5, SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:8, SEQ ID NO:11).

Applicants elect with traverse AFTA from Group A and SEQ ID NO:8 from Group B for examination at this time.

The Examiner is respectfully reminded that M.P.E.P. § 803.02 states that "if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the Examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions. In such a case, the Examiner will not . . . require restriction." Accordingly, Applicants respectfully request that the Examiner reconsider whether restriction is proper in this case. Moreover, Applicant reminds the Examiner that "should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended . . . to the extent necessary to determine patentability of the Markush-type claim" (M.P.E.P. § 803.02).

Applicants understand that the subject matter of the nonelected claims may be pursued in a divisional patent application which shall enjoy all rights a benefits of 35 U.S.C. §121.

Respectfully submitted,

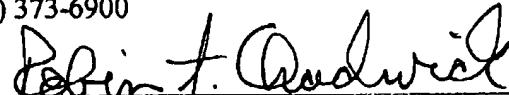
STEPHEN QUIRK ET AL.,

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date July 19, 2004

By

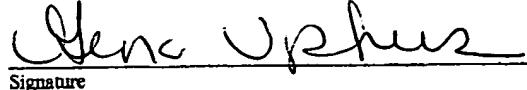


Robin A. Chadwick
Reg. No. 36,477

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Gina M. Uphus

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Signature

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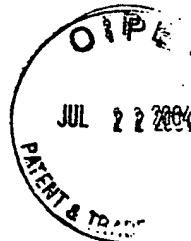
Examiner: Malgorzata A. Walicka

Group Art Unit: 1652

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450



We are transmitting herewith the following attached items (as indicated with an "X"):

A return postcard.
 Response to a Restriction Requirement (2 Pages).

If not provided for in a separate paper filed herewith, Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
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By: Robin A. Chadwick
Atty: Robin A. Chadwick
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(GENERAL)